

URGENT Modification Report
Amendment to period of Summer Capacity Auctions to Six Months
Modification Reference Number 0564
Version 2.0

This Modification Report is made pursuant to Rule 9 of the Modification Rules and follows the format required under Rule 8.9.3.

Circumstances Making this Modification Proposal Urgent:

In accordance with Rule 9.1.2 Ofgem has agreed that this Modification Proposal should be treated as Urgent because In accordance with Rule 9.1.2 OFGEM has agreed that this Modification Proposal should be treated Urgent because the MSEC auctions are due to be held in August 2002 and if this Proposal was implemented it would impact the structure of the auction and Users' bidding strategies.

Procedures Followed:

Transco agreed with Ofgem (and has followed) the following procedures for this Proposal:

Issued to Ofgem for decision on urgency	5 July 2002
Proposal agreed as urgent	5 July 2002
Proposal issued for consultation	5 July 2002
Close out for representations	12 July 2002
Final report to Ofgem	17 July 2002
Ofgem decision expected	19 July 2002

1. The Modification Proposal

Two separate 6 month allocations are held for entry capacity for Gas Year 2002/03. In summer 2002, the auction for capacity for October 2002 to March 2003 would be held. The auction for April 2003 to September 2003 would be held in February 2003. It is envisaged that longer term auctions would cover annual or longer periods commensurate with the Gas Year (October to September).

2. Transco's Opinion

Transco recognises Users' concerns about uncertainty surrounding the future of the entry capacity regime. In particular, Transco understands that Users may not wish to make long term commitments until Ofgem's proposed amendments to the GT Licence have been implemented. However should these amendments be implemented, Transco would have a reasonable endeavours obligation to offer for sale all Long Term Baseline capacity for this formula period before 1 October 2002. Apart from concerns associated with this possible obligation, Transco is neutral to this proposal.

3. Extent to which the proposed modification would better facilitate the relevant objectives

Ofgem have proposed that Transco should have a reasonable endeavours obligation to offer for sale all Long Term Baseline capacity for the current formula period before 1 October 2002 in its revised GT Licence. The implementation of this Modification Proposal would mean that not all of the capacity for the formula period would be offered for sale; therefore Transco is concerned that this proposal would not better facilitate the relevant objective in Standard Condition 9(1)(b) in Transco's GT Licence, as it would not enable the efficient discharge of Transco's obligations under the GT Licence should Ofgem's proposed changes be implemented.

The proposer suggested the "proposal furthers the Relevant Objectives by ensuring effective competition between shippers by ensuring certainty over the longer term and allowing for changes consistent with the efficient discharge of Transco's licence conditions can be implemented more quickly once the licence is finalised."

**4. The implications for Transco of implementing the Modification Proposal , including
a) implications for the operation of the System:**

Transco has not identified any implications for the operation of the system.

b) development and capital cost and operating cost implications:

No such costs are anticipated.

c) extent to which it is appropriate for Transco to recover the costs, and proposal for the most appropriate way for Transco to recover the costs:

No such costs are anticipated.

d) analysis of the consequences (if any) this proposal would have on price regulation:

There are no such implications

5. The consequence of implementing the Modification Proposal on the level of contractual risk to Transco under the Network Code as modified by the Modification Proposal

There are no such consequences

6. The development implications and other implications for computer systems of Transco and related computer systems of Users

There are no such implications.

7. The implications of implementing the Modification Proposal for Users

Users would only be able to purchase capacity for six months rather than twelve months.

8. The implications of implementing the Modification Proposal for Terminal Operators, Consumers, Connected System Operators, Suppliers, producers and, any Non-Network Code Party

There are no such implications

9. Consequences on the legislative and regulatory obligations and contractual relationships of Transco and each User and Non-Network Code Party of implementing the Modification Proposal

There are no such consequences.

10. Analysis of any advantages or disadvantages of implementation of the Modification Proposal

Advantages:

- Would enable further changes to be considered
- More certainty available for a second set of auctions.

Disadvantages:

- The operational costs to shippers and Transco of two sets of auctions.

11. Summary of the Representations (to the extent that the import of those representations are not reflected elsewhere in the Modification Report)

Transco received a total of 15 representations for this Proposal:-

British Gas Trading (BGT)
Chevron UK Limited (CHV)
Innogy (INN)
Powergen UK Plc (POW)
London Electricity Group (LEG)
Txu Europe Energy Trading Limited (TXU)
TotalFinaElf Exploration UK PLC (TFE & E)
TotalFinaElf Gas and Power Limited (TFEG & P)
BP Gas (BP)
Conoco (UK) Ltd (CON)
Sse Energy Supply Ltd (SSE)
ExxonMobil Gas Marketing (MOB)
BG Gas Services Ltd (BGS)
Statoil (UK) Ltd (STA)

Shell Gas Direct (SGD)

Thirteen respondents supported the proposal in the current form (BGT, CHV, INN, POW, LEG, TXU, TFE & E, TFEG & P, BP, CON, BGS, STA, SGD).

One respondent gave qualified support (SSE).

One respondent did not support the proposal (MOB).

Agreed Framework

Twelve respondents (BGT, CHV, INN, POW, LDE, TXU, TFEG & P, BP, CON, BGS, STA, SGD) believed that due to the uncertainties in the entry capacity regime a six monthly auction is appropriate at this time. Respondents considered that the uncertainty was due to Ofgem's proposed amendments to Transco's GT licence which have not been implemented, current Modification Proposals (including Modification Proposals 0500, 0508, 0549 and 0559) and the supplementary documents required by Ofgem's proposed licence amendments not being agreed. BGT commented a six monthly auction would "...limit the exposures suffered by all participants in the industry due to these uncertainties...". CHV supported a twelve monthly auction in their response in Modification Proposal 0549 but now believe "...it is difficult to justify making an annual commitment in such an uncertain environment...". INN considered that a six monthly auction would "...assist participants in making short-term decisions necessary due to the lack of understanding about the capacity regime in 2003." BP believed a six-month period would "...serve to reduce the considerable risks currently faced by bidders for capacity...". BGS commented "...it is essential that the community are aware of the rules for auctions prior to commencement, and that changes are not subsequently made." TXU observe that it would be best for the community to concentrate on resolving the current uncertainties and that it would be "...advantageous to test the revenue flows" and "...that such a test would be invaluable as further change post the auctions should be avoided due to the risk of impacting the value of the products purchased....".

Both SSE and MOB recognise that there are uncertainties and risk regarding the changes to the entry capacity regime, but they believe that a six-month auction will not necessarily reduce these uncertainties and risk. MOB believe that "...with entry capacity quantities offered close to unconstrained levels on a year round basis, the remaining uncertainties contribute a much less material impediment to a twelve month auction than in the past..." Although at the present time SSE support the proposal they expressed the view "...that there are merits in restricting the MSEC auction to six months, this will only have the desired effect if no further Modification Proposals are raised and the outcome of the proposals currently being consulted upon is known in sufficient time for shippers to consider the impact that they might have on the regime ..." and they "continue to support 12 month auctions in line with the gas year....".

Five respondents (INN, TXU, TFEG & P, SSE, SGD) stated that two six-month auctions would be appropriate, although SSE support this view they "...continue to support 12 month

auctions in line with the gas year...”. TFEG & P acknowledged, “...that there is considerable merit in the adoption of two 6-month auctions...”.

Transco Response

Transco recognises respondents concerns about uncertainties in the future shape of the commercial regime. In particular Transco understands that many respondents are not comfortable about making long-term commitments until the proposed GT licence amendments are resolved. In this instance Transco is happy to be guided by majority opinion and is willing to support a six-month allocation for the winter 2002 auctions.

12. The extent to which the implementation is required to enable Transco to facilitate compliance with safety or other legislation

Implementation is not required to facilitate compliance with any such legislation.

13. The extent to which the implementation is required having regard to any proposed change in the methodology established under Standard Condition 4(5) or the statement furnished by Transco under Standard Condition 4(1) of the Licence

Implementation is not required having regard to any proposed change in the methodology established under Standard Condition 4(5) of the statement furnished by Transco under Standard Condition 4(1) of the Licence.

14. Programme of works required as a consequence of implementing the Modification Proposal

There are no such works.

15. Proposed implementation timetable (including timetable for any necessary information systems changes)

Timetable

Modification proposal raised	5th July
Consultation closes out	12th July
Final modification report issued	17th July
Ofgem decision expected	19th July

16. Recommendation concerning the implementation of the Modification Proposal

In this instance Transco is happy to be guided by majority opinion and is willing to support a six-month allocation for the winter 2002 auctions.

17. Restrictive Trade Practices Act

If implemented this proposal will constitute an amendment to the Network Code. Accordingly the proposal is subject to the Suspense Clause set out in the attached Annex.

18. Transco's Proposal

This Modification Report contains Transco's proposal to modify the Network Code and Transco now seeks direction from the Gas & Electricity Markets Authority in accordance with this report.

19. Text

TRANSITION DOCUMENT PART II

Delete paragraph 8.1.3. and replace as follows

8.1.3 B2 In respect of the calendar months October 2002 to March 2003 (inclusive) and April 2003 to September 2003 (inclusive) (“relevant month”):

- (1) Section B2.2 shall not apply and for the purposes of Section B2.3:-
 - (a) reference to Determined System Entry Capacity in respect of an Aggregate System Entry Point and each relevant month shall be treated as a reference to the amount of System Entry Capacity identified as the [Output ASEP Quantity] for the Aggregate System Entry Point and the relevant month set out in Transportation Statement;
 - (b) the reference in Section 2.3.1 to each calendar month in the Gas Year shall be treated as a reference to each relevant month;
 - (c) Transco’s invitation under Section 2.3.2 in respect of the calendar months October 2002 to March 2003 (inclusive) shall specify four dates, the last of which shall not be later than [31 August 2002] and the amount of System Entry Capacity that will be available on the first three invitation dates shall be an amount equal to 25% of the amount of System Entry Capacity determined in accordance with paragraph (1); and on the fourth date shall be an amount equal to such amount of System Entry Capacity that remains available after allocation in accordance with Section 2.3 following the third invitation date.
 - (d) Transco’s invitation under Section 2.3.2 in respect of the calendar months April 2003 to September 2003 shall specify four dates, the last of which shall not be later than [28th February 2002] and the amount of System Entry Capacity that will be available on the first three invitation dates shall be an amount equal to 25% of the amount of System Entry Capacity determined in accordance with paragraph (1); and on the fourth date shall be an amount equal to such amount of System Entry Capacity that remains

available after allocation in accordance with Section 2.3 following the third invitation date.

- (2) Sections B2.6 and B2.7 shall not apply.

Signed for and on behalf of Transco.

Signature:

Tim Davis
Head of Regulation NT&T

Date:

Gas and Electricity Markets Authority Response:

In accordance with Condition 9 of the Standard Conditions of the Gas Transporters' Licences dated 21st February 1996 I hereby direct Transco that the above proposal (as contained in Modification Report Reference **0564**, version **2.0** dated **24/07/2002**) be made as a modification to the Network Code.

Signed for and on Behalf of the Gas and Electricity Markets Authority.

Signature:

The Network Code is hereby modified with effect from, in accordance with the proposal as set out in this Modification Report, version **2.0**.

Signature:

Process Manager - Network Code
Transco

Date:

Annex

1. Any provision contained in this Agreement or in any arrangement of which this Agreement forms part by virtue of which The Restrictive Trade Practices Act 1976 ("the RTPA"), had it not been repealed, would apply to this Agreement or such arrangement shall not come into effect:
 - (i) if a copy of the Agreement is not provided to the Gas and Electricity Markets Authority ("the Authority") within 28 days of the date on which the Agreement is made; or
 - (ii) if, within 28 days of the provision of the copy, the Authority gives notice in writing, to the party providing it, that he does not approve the Agreement because it does not satisfy the criterion specified in paragraphs 1(6) or 2(3) of the Schedule to The Restrictive Trade Practices (Gas Conveyance and Storage) Order 1996 ("the Order") as appropriate

provided that if the Authority does not so approve the Agreement then Clause 3 shall apply.
2. If the Authority does so approve this Agreement in accordance with the terms of the Order (whether such approval is actual or deemed by effluxion of time) any provision contained in this Agreement or in any arrangement of which this Agreement forms part by virtue of which the RTPA, had it not been repealed, would apply this Agreement or such arrangement shall come into full force and effect on the date of such approval.
3. If the Authority does not approve this Agreement in accordance with the terms of the Order the parties agree to use their best endeavours to discuss with Ofgem any provision (or provisions) contained in this Agreement by virtue of which the RTPA, had it not been repealed, would apply to this Agreement or any arrangement of which this Agreement forms part with a view to modifying such provision (or provisions) as may be necessary to ensure that the Authority would not exercise his right to give notice pursuant to paragraph 1(5)(d)(ii) or 2(2)(b)(ii) of the Order in respect of the Agreement as amended. Such modification having been made, the parties shall provide a copy of the Agreement as modified to the Authority pursuant to Clause 1(i) above for approval in accordance with the terms of the Order.
4. For the purposes of this Clause, "Agreement" includes a variation of or an amendment to an agreement to which any provision of paragraphs 1(1) to (4) in the Schedule to the Order applies.